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Applicant : Abraham I. Zeigler et al. Art Unit : 3624
Serial No. : 09/401,875 Examiner : Campen, Kelly Scaggs
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BRIEF ON APPEAL

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(1) Real Party In Interest

The real party in interest in the above application is The Nasdaq Stock Market, Inc., a corporation existing by virtue of laws of the State of Delaware.

(2) Related Appeals and Interferences

The appellant is not aware of any appeals or interferences related to the above-identified patent application.

(3) Status of Claims

This is an appeal from the decision of the Primary Examiner in an office action dated February 7, 2006, finally rejecting claims 1-23. Claims 23-41 were subjected to a restriction under 35 U.S.C. § 121. Appellant filed a Notice of Appeal on May 8, 2006.

(4) Status of Amendments

Appellant filed a Request for Reconsideration in reply to the Final Office Action. All previously filed amendments have been entered.

(v.) Summary of Claimed Subject Matter

Claim 1

Appellant's claim 1 is directed to a method executed in a computer server system of an electronic market for managing quotes for a security. "The market system 20 is comprised of one or preferably a plurality of server computers generally denoted as 22 including a processor 22a, main memory 22b and storage 22c." [Appellant's Specification Page 3, line 24-27]

Inventive features of Appellant' of claim 1 include receiving by the server computer system from client systems used by market participants, "The client systems include a processor, memory and a storage device e.g., a client workstation or personal computer that can include a client process to enter quotes/orders into the electronic market system." [Appellant's Specification Page 3, line 19-23] additional aggregate quotes, the additional aggregate quotes having a size value with the additional aggregate quotes being quotes that are displayable on

displays of client systems, as trading interest in a security, but not being attributable to any market participant. "Quotes submitted to the system can include a quote size, additional aggregate size and a reserve size. *** Additional aggregate size is size (in addition to Quote Size) that the market maker or ECN wishes to display to the marketplace through an aggregate display in a top-half of the order display window 70. This size is not attributable to the market maker or ECN until it is executed." [Appellant's Specification Page 4, line 19-28].

Claim 13

Claim 13 is directed to an electronic market for trading of securities. This feature generally finds support as the analogous feature of claim 1.

Inventive features of Appellant' of claim 13 include a plurality of client systems for entering quotes for securities specifying a price level and a quote size, with the quotes being quotes that are displayable and attributable to a specific market participant or additional aggregate quotes that are displayable but not attributable to a specific market participant. "The client systems include a processor, memory and a storage device e.g., a client workstation or personal computer that can include a client process to enter quotes/orders into the electronic market system." [Appellant's Specification Page 3, line 19-23] "Quotes submitted to the system can include a quote size, additional aggregate size and a reserve size. *** Additional aggregate size is size (in addition to Quote Size) that the market maker or ECN wishes to display to the marketplace through an aggregate display in a top-half of the order display window 70. This size is not attributable to the market maker or ECN until it is executed." [Appellant's Specification Page 4, line 19-28].

Inventive features of Appellant' of claim 13 also include a server computer system that receives the quotes from the client systems, aggregates the quotes and causes totals of aggregate quotes for a plurality of price levels to be displayed on displays in data communication with the client systems. "Referring now to FIG. 4, an order display graphical user interface (GUI) 70 is shown. In this embodiment, the order display GUI 70 includes two regions. A first region 72 displays aggregated bids and offers and includes a first line 72a to display the price levels for best bid and best offer along with quote sizes. The quotes sizes are the total aggregate number of displayable shares 75, 77 and aggregate agency shares 76, 78. These quotes are subject to

automatic execution for both sides (bid and offer) of the inside market.” [Appellant's Specification Page 7, line 15-23].

Claim 18

Claim 18 is directed to a client system for entering quotes for securities. “The client systems include a processor, memory and a storage device e.g., a client workstation or personal computer that can include a client process to enter quotes/orders into the electronic market system.” [Appellant's Specification Page 3, line 19-23]

Inventive features of Appellant' of claim 18 include a display rendering a graphical user interface at which quotes can be entered at a price level, said graphical user interface comprising controls to enter a quote having a size, the quote being displayable and attributable to a specific market participant, a reserve quote, having a size, the reserve quote being neither displayable nor attributable to a specific market participant, and an additional aggregate quote, having a size that is displayable but not attributable to a specific market participant. “Referring to FIG. 7, a format for quotes 80 submitted to the market system 20 include a quote size 82, an additional aggregate size 86, and a reserve size 84. ... Quote size is the size that is directly attributable to the market maker or ECN when displayed in the current quote montage 74 of the window 70. ... The additional aggregate size is the size in addition to quote size that a market maker or ECN wishes to display to the marketplace through the aggregate display in the upper portion 72 of the window 70, but for which the market maker desires to have it remain anonymous until executed. ... Reserve size is the size that is not displayed to the marketplace, but is immediately accessible through the market system 20. ...” [Appellant's Specification Page 12, line 20 to page 13, line 25].

Claim 20

Claim 20 is directed to a graphical user interface for an electronic market for trading products. [Appellant's Specification Page 7, line 15].

Inventive features of claim 20 include an aggregation window that displays additional aggregate quotes for a plurality of price levels of a product traded in the market, the aggregate quotes including quotes that are attributable to market participants and quotes that are

displayable quotes but are not attributable to any market participants. "Referring now to FIG. 4, an order display graphical user interface (GUI) 70 is shown. In this embodiment, the order display GUI 70 includes two regions. A first region 72 displays aggregated bids and offers and includes a first line 72a to display the price levels for best bid and best offer along with quote sizes. The quotes sizes are the total aggregate number of displayable shares 75, 77 and aggregate agency shares 76, 78. These quotes are subject to automatic execution for both sides (bid and offer) of the inside market." [Appellant's Specification Page 7, lines 15-23].

Advantages of the various aspects of the invention include improving market transparency and reducing market fragmentation that can occur with multiple, competing, market centers. Aspects of the invention can enhance the collection, aggregation and display of pre-trade information enabling fast, efficient, low-cost access to liquidity. . Aspects of the invention can aggregate pre-trade information from various market venues and display the information in a manner that exposes the depth in the market place, complies with order handling rules, and minimizes disclosure of identity of trading interest which should encourage greater quote and order display. Aspects of the invention also preserve the ability of market makers to advertise quotes to promote negotiated transactions. (Appellant's specification on page 2, lines 9-26).

(vi.) Grounds of Rejection to be Reviewed on Appeal

1. Claims 1-23 stand rejected under 35 U.S.C. 101 as directed to non-statutory subject matter.
2. Claims 1-23 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite.
3. Claims 1-23 stand rejected under 35 U.S.C. 102(b) as being anticipated by Gutterman et al. (WO 91/14231).

(7) Argument

Indefiniteness

The second paragraph of 35 U.S.C. §112 second paragraph requires that the specification conclude with one or more claims that particularly point out and distinctly claim the subject matter that the applicant regards as his invention.

It is not necessary for the claims to recite every element needed for practical utilization of the claimed subject matter in order for a claim to be proper under 35 U.S.C. §112, second paragraph, *Bendix Corp. v. United States*, 600 F.2d 1364, 1369, 204 U.S.P.Q. 617, 621 (Court of Claims, 1979) and *Miles Laboratories, Inc. v. Shandon, Inc.*, 997 F.2d 870, 27 U.S.P.Q. 2d, 1123 (Federal circuit, 1993). It is not the role of the claims to enable one skilled in the art to reproduce the invention, but rather to define the legal metes and bounds of the invention. *In re Geoffe*, 526 F.2d 1393, 1397, 188 U.S.P.Q. 131, (CCPA, 1975). The claims need not provide all operating details but a method claim should recite a positive step. *In re Erlich*, 3 U.S.P.Q. 2d 1011 (Bd. Pat. App. & Int., 1986).

Anticipation

"It is well settled that anticipation under 35 U.S.C. §102 requires the presence in a single reference of all of the elements of a claimed invention." *Ex parte Chopra*, 229 U.S.P.Q. 230, 231 (BPA&I 1985) and cases cited.

"Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim." *Connell v. Sears, Roebuck & Co.*, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983).

"This court has repeatedly stated that the defense of lack of novelty (i.e., 'anticipation') can only be established by a single prior art reference which discloses each and every element of the claimed invention." *Structural Rubber Prod. Co. v. Park Rubber Co.*, 223 U.S.P.Q. 1264, 1270 (Fed. Cir. 1984), citing five prior Federal Circuit decisions since 1983 including *Connell*.

In a later analogous case the Court of Appeals for the Federal Circuit again applied this rule in reversing a denial of a motion for judgment n.o.v. after a jury finding that claims were anticipated. *Jamesbury Corp. v. Litton Industrial Prod., Inc.*, 225 U.S.P.Q. 253 (Fed. Cir. 1985).

After quoting from *Connell*, "Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim," 225 U.S.P.Q. at 256, the court observed that the patentee accomplished a constant tight contact in a ball valve by a lip on the seal or ring which interferes with the placement of the ball. The lip protruded into the area where the ball will be placed and was thus deflected after the ball was assembled into the valve. Because of this constant pressure, the patented valve was described as providing a

particularly good seal when regulating a low pressure stream. The court quoted with approval from a 1967 Court of Claims decision adopting the opinion of then Commissioner and later Judge Donald E. Lane:

[T]he term "engaging the ball" recited in claims 7 and 8 means that the lip contacts the ball with sufficient force to provide a fluid tight seal **** The Saunders flange or lip only sealingly engages the ball 1 on the upstream side when the fluid pressure forces the lip against the ball and never sealingly engages the ball on the downstream side because there is no fluid pressure there to force the lip against the ball. The Saunders sealing ring provides a compression type of seal which depends upon the ball pressing into the material of the ring. *** The seal of Saunders depends primarily on the contact between the ball and the body of the sealing ring, and the flange or lip sealingly contacts the ball on the upstream side when the fluid pressure increases. 225 U.S.P.Q. at 258.

Relying on *Jamesbury*, the ITC said, "Anticipation requires looking at a reference, and comparing the disclosure of the reference with the claims of the patent in suit. A claimed device is anticipated if a single prior art reference discloses all the elements of the claimed invention as arranged in the claim." *In re Certain Floppy Disk Drives and Components Thereof*, 227 U.S.P.Q. 982, 985 (U.S. ITC 1985).

(1) Claims 1-23 claim statutory subject matter within the meaning of 35 U.S.C. 101.

The examiner rejected Claims 1-23 under 35 U.S.C. 101, as directed to non-statutory subject matter.

According to the examiner, in order for a claim to claim patentable subject matter: "The invention in the body of the claim must recite technology." The examiner in rejecting Appellant's claims stated that:

Claims 1-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to nonstatutory subject matter. The claimed method consists solely of the manipulation of an abstract idea and is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). See also

Schrader, 22 F.3d at 295, 30 USPQ2d at 1459. In addition, the claim is devoid of any limitation to a practical application in the technological arts. The invention in the body of the claim must recite technology. If the invention, in the body of the claim, is not tied to technological art, environment, or machine, the claim is not statutory (see *Ex parte Bowman*, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001). Also note MPEP 2106 IV 2(b). Examiner notes that this is not a precedential decision but it is being cited for its analysis of whether the claim is in the technological arts.

As to claims 18-19, the claims appear to be directed towards a client station but do not include any more than descriptions of a quote and no tie to the technological art. As to claims 20-23, the claims appear to be directed towards a graphical user interface but again appear to merely describe quotes.

Appellant's claim 1 is directed to: "A method, executed in a computer server system of an electronic market, for managing quotes for a security." Claim 1 recites the feature of receiving by the server computer system from client systems *** additional aggregate quotes ***.

The Examiner's finding that Applicant's "claimed method consists solely of the manipulation of an abstract idea and is not concrete or tangible," is facially wrong and the examiner's finding is not supportable by the guidance expressed by the Federal Circuit in *In re Warmerdam*, 33 F.3d 1354, 31 U.S.P.Q.2d 1754 (Fed. Cir. 1994), as interpreted by *AT&T Corp v. Excel Communications, Inc.* et al. 72 F.3d 1352, 50 U.S.P.Q.2d 1447 (Fed. Cir. 1999).

Appellant contends that the examiner's reliance on *In re Warmerdam*, 33 F.3d, 1354 31 USPQ2d 1754 (Fed. Cir.1994) is misplaced. While the Federal Circuit found claims 1-4 and 6 reciting "steps [that] describe nothing more than the manipulation of basic mathematical constructs, the paradigmatic "abstract idea,"¹ the Federal Circuit also found claim 5², which was dependent on claims 1-4, directed to a machine and "clearly patentable subject matter." 33 F.3d at 1360-61, 31 USPQ2d at 1759. Thus, the Federal Circuit found claim 4, which depended from a claim that described nothing more than the manipulation of basic mathematical construct, because it was directed to a machine, recited statutory subject matter.

¹ "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data. Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. *Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

² Claim 5 from *Warmerdam* depended from non-statutory claims and recited the abstract feature of those claims, namely the bubble hierarchy generated by the method. The Federal Circuit found the claim statutory because it was directed to a machine.

5. A machine having a memory which contains data representing a bubble hierarchy generated by the method of any of Claims 1 through 4.

Appellant's claim 1 recites a method, executed in a computer server system of an electronic market, for managing quotes for a security. Thus, claim 1, rather than being directed to: "the manipulation of an abstract idea and not concrete or tangible," as contended by the examiner, is clearly directed to a method executed on a machine, namely a computer server system. In addition, unlike claims 1-4 and 6 in *Warmerdam*, claim 1 recites in the body of the claim, the action of receiving by the server computer system from client systems ... additional aggregate quotes Thus, claim 1 involves technology and by its very terms cannot be construed to be the mere manipulation of an abstract idea.

Claim 13 is directed to an electronic market for trading of securities. Claim 13 recites a plurality of client systems for entering quotes ... and a server computer system that receives the quotes from the client systems... . Claim 13 is tangible and concrete by being embodied on a server computer system.

Claim 18 is directed to a client system for entering quotes for securities and includes a display rendering a graphical user interface at which quotes can be entered at a price level. Thus, claim 18 is concrete and tangible being embodied on a client system and including a display that renders a graphical user interface. In addition, the claimed graphical user interface includes controls to enter a quote ... a reserve quote ... and an additional aggregate quote

Claim 20 is directed to a graphical user interface for an electronic market and includes an aggregation window that displays additional aggregate quotes for a plurality of price levels of a product traded in the market, the aggregate quotes including quotes that are attributable to market participants and quotes that are displayable quotes but are not attributable to any market participants.

Technological Arts

The also examiner relies on a perceived lack of technology as the basis to argue that the claims are directed to non-statutory subject matter and specifically addresses Appellant's argument advance in the Reply to the action of February 7, 2006 by advancing a two prong technological arts test (See final action pages 5-8).

Appellant contends that the Board has refused to adopt any technological arts test, as

most recently expressed in *Ex Parte Lundgren*, __ USPQ2d __ (BPAI Oct. __, 2005).³ Moreover, the precedents that are binding on this Board and the examiner clearly reject the notion that *Bowman*⁴ supports any technological arts requirement, as the examiner reasons in the Final Office Action (See Response to Argument page 8).

The examiner contends that: "the claim is devoid of any limitation to a practical application in the technological arts. The invention in the body of the claim must recite technology. If the invention, in the body of the claim, is not tied to technological art, environment, or machine, the claim is not statutory." In further explaining the rationale for rejection of these claims the examiner relies on a technological arts two prong test requirement stating that:

The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Hence, the first test of whether an invention is eligible for a patent is to determine if the invention is within the "technological arts". *** This "two prong" test was evident when the Court of Customs and Patent Appeals (CCPA) decided an appeal from the Board of Patent Appeals and Interferences (BPAI). See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978).

Initially, the phrase "technological arts" as used by the court in *In re Musgrave* was viewed as expanding statutory subject matter. Indeed, Judge Baldwin in a concurring opinion in *Musgrave* contended that the "technological arts" test would have an expansive effect on what would be considered as statutory subject matter.⁵

Under the rationale expressed in *Musgrave*, all that was required to make a sequence of steps statutory is that the sequence be within the "technological arts." In *Musgrave*, the court held that:

We cannot agree with the board that these claims (all the steps of which can be carried out by the disclosed apparatus) are directed to non-statutory processes merely because some or all the

³ Appeal No. 2003-2088 HEARD: April 20, 2004. (Fleming, Harkcom, Hairston, Jerry Smith (dissent), Barrett (concur-in-part, dissent-in-part, with Smith) (per curium))

⁴ *Ex parte Bowman*, 61 U.S.P.Q.2d 1669 (Board of Patent Appeals and Interferences, 2001)

⁵ "What The Majority Opinion Does One need only read the page 893 of the opinion to find the principal holding: 'All that is necessary * * * to make a sequence of operational steps a statutory 'process' within 35 USC 101 is that it be in the technological arts.' No limitations are placed upon this holding. In effect it is a pronouncement of new law." *Id.* at 894

steps therein can also be carried out in or with the aid of the human mind or because it may be necessary for one performing the processes to think. All that is necessary, in our view, to make a sequence of operational steps a statutory 'process' within 35 U.S.C. § 101 is that it be in the technological arts so as to be in consonance with the Constitutional purpose to promote the progress of 'useful arts.' Const. Art. 1, sec. 8.

However, the Court of Custom and Patent Appeals, in *In re Toma*, 575 F.2d 872, 197 U.S.P.Q. 852 (CCPA, 1978) clarified the use of the "technological arts" inquiry that the examiner relies on here. In *Toma*, the court held that: "The language which the examiner has quoted was written in answer to "mental steps" rejections and was not intended to create a generalized definition of statutory subject matter. Moreover, it was not intended to form a basis for a new §101 rejection as the examiner apparently suggests. To the extent that this "technological arts" rejection is before us, independent of the rejection based on Benson, it is also reversed." Id. 575 F.2d at 877.

Even though the court held in *Toma* that: "the invention was nothing more than an abstract idea which is not tied to any technological art, environment, or machine, and is not a useful art as contemplated by the Constitution of the United States.", id. at 877, the court did not adopt a new test but merely expressed a short cut for claims that do not define statutory subject matter, namely patent claims drawn solely to abstract ideas, laws of nature or mental steps.

In *Lundgren*, the Board specifically recognized that "there is currently no judicially recognized separate 'technological arts' test to determine patent eligible subject matter under § 101. We decline to propose to create one." Id. __ USPQ2d at __.

The Board's own prior precedents also fail to support the examiner contention of a technological arts requirement. The Board in *Bowman* acknowledged the role of technology, as distinguished from mental steps in affirming a §101 rejection.⁶ However, in *Bowman* the Board found that the disclosed and claimed invention was not tied to "any technological art or environment," id. at 1671. In contrast to the situation presented to the Board in *Bowman*,

⁶ "The examiner finds that neither the specification nor the claims discuss the use of any technology with respect to the claimed invention [answer, pages 5-6]. [1] We agree with the examiner. Appellant has carefully avoided tying the disclosed and claimed invention to any technological art or environment. As noted by the examiner, the disclosed and claimed invention is directed to nothing more than a human making mental computations and manually plotting the results on a paper chart [answer, page 5]." *Bowman*, 61 U.S.P.Q.2d 1669 at 1671.

Appellant's specification is clearly within the technological arts and all of Appellant's claims recite features within a technological art or a technological environment.

Even if the Board agrees that the second prong referred to by the examiner is necessary to find statutory subject matter, Appellant's claims meet the technological arts language of *Bowman* for reasons discussed below.

Claim 1-12

Appellant's claim 1 is specifically limited to a method, executed in a computer server system of an electronic market. Claim 1 indeed recites technology, in the form a server, computer system, i.e., a machine in both the preamble and the body of the claim, contrary to the contention of the examiner. The examiner is invited to re-read appellant's claim 1. Thus, claim 1 clearly satisfies the requirements of the precedents binding on the examiner and the Board.

The examiner is not free to ignore the limitation of the method executed in a computer server system of an electronic market simply because it is in the preamble of claim 1.⁷ Moreover, the examiner is not free to contend that the mere absence of a specific role for a computer (in spite of the very presence of a computer in the body of the claim) makes the claims directed to non-statutory subject matter. *In re Musgrave*, 167 U.S.P.Q. 280 (CCPA, 1970) as clarified by *In re Toma*, 575 F.2d 872, 197 U.S.P.Q. 852 (CCPA, 1978).

⁷ The courts have consistently held that for method claims the preamble is given patentable weight when it breathes life and meaning into the claims. See *Griffin v. Bertina*, 62 USPQ2d 1431 (Fed. Cir. 2002).

[A] claim preamble has the import that the claim as a whole suggests for it." *Bell Communications Research, Inc. v. Vitalink Communications Corp.*, 55 F.3d 615, 620, 34 USPQ2d 1816, 1820 (Fed.Cir.1995). If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is "necessary to give life, meaning, and vitality" to the claim, then the claim preamble should be construed as if in the balance of the claim. *Kropa v. Robie*, 38 C.C.P.A. 858, 187 F.2d 150, 152, 88 USPQ 478, 480-81 (CCPA 1951); see also *Rowe v. Dror*, 112 F.3d 473, 478, 42 USPQ2d 1550, 1553 (Fed.Cir.1997); *Corning Glass Works v. Sumitomo Elec. U.S.A., Inc.*, 868 F.2d 1251, 1257, 9 USPQ2d 1962, 1966 (Fed.Cir.1989). Indeed, when discussing the "claim" in such a circumstance, there is no meaningful distinction to be drawn between the claim preamble and the rest of the claim, for only together do they comprise the "claim". If, however, the body of the claim fully and intrinsically sets forth the complete invention, including all of its limitations, and the preamble offers no distinct definition of any of the claimed invention's limitations, but rather merely states, for example, the purpose or intended use of the invention, then the preamble is of no significance to claim construction because it cannot be said to constitute or explain a claim limitation. See *Rowe*, 112 F.3d at 478, 42 USPQ2d at 1553; *Corning Glass*, 868 F.2d at 1257, 9 USPQ2d at 1966; *Kropa*, 187 F.2d at 152, 88 USPQ at 480-81.

Each of the claims produces a useful, concrete and tangible result, namely: "managing quotes" and are thus directed to statutory subject matter. By analogy, claim 13 directed to an electronic market that includes a plurality of client systems for entering quotes for ... and a server computer system that receives the quotes ... recites technology in both the body and the preamble of the claims. Claim 18 also recites technology and thus is directed to a client system including a display rendering a graphical user interface at which quotes can be entered at a price level, ...

Claim 20 is directed to a graphical user interface for an electronic market. In claim 20, the graphical user interface includes an aggregation window that displays additional aggregate quotes Claim 20 is directed to statutory subject matter because, it is limited to a graphical user interface for an electronic market and because it recites a useful, concrete and tangible result, namely: "an aggregation window that displays additional aggregate quotes for a plurality of price levels of a product traded in the market" The Board in *Ex Parte Lundgren*, __ USPQ2d at __ specifically found that to be the only requirement for statutory subject matter given the Federal Circuit's decision in *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1358, 50 USPQ2d 1447, 1452 (Fed. Cir. 1999).⁸

In contrast to the situation found by the Federal Circuit in *Toma*, where: "the invention was nothing more than an abstract idea which is not tied to any technological art, environment, or machine, and is not a useful art as contemplated by the Constitution of the United States.", *id.* at 877," here claim 20 is tied to a specific environment, namely a graphical user interface for an electronic market.

Therefore, in view of the precedents discussed above, the rejection is clearly erroneous as

⁸ "In reviewing the examiner's "Response to Argument" set forth at pages 3-8 of the Examiner's Answer of May 1, 2003, we first note that the examiner states that "the part of the 35 U.S.C. § 101 rejection that asserted that claims 1, 2, 6, 7, 19-22, 32, and 35-40 fail to produce a useful, concrete, and tangible result is withdrawn." By withdrawing this rejection, it can be concluded that the examiner has found that the process claims on appeal produce a useful, concrete, and tangible result.

Since the Federal Circuit has held that a process claim that applies a mathematical algorithm to "produce a useful, concrete, tangible result without pre-empting other uses of the mathematical principle, on its face comfortably falls within the scope of § 101," *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1358, 50 USPQ2d 1447, 1452 (Fed. Cir. 1999), one would think there would be no more issues to be resolved under 35 U.S.C. § 101." *Ex Parte Lundgren*, __ USPQ2d at __

a matter of law and must be reversed.

(2) Claims 1-23 particularly point out and distinctly claim the subject matter which Appellants regard as their invention within the meaning of 35 U.S.C. 112, first paragraph.

Claim 1 is neither incomplete nor indefinite. Appellant had requested that the examiner re-read the claims since none of the rejections appeared to be based on the current claim set, which is now the claim set on appeal. Claim 1 had previously been amended [Applicant's Reply of Feb. 7, 2003] to recite a method of managing quotes, not "trading securities" as the examiner argues in the final action.

"Additional aggregates" found in line 2 of claim 1 has sufficient antecedent basis, since the feature is presented, in the plural, without the definite article "the." Claim 10 recites the limitation "a reserve quote" not "the reserved" quote in line 2. Claim 12 recites the limitation "additional ... reserve quotes" in line 2. Claim 12 recites the limitation "the order" in line 4 and finds antecedent basis for this limitation in base claim 11.

For claim 13, a server process that aggregates quotes and causes aggregate quotes to be displayed, clearly defines the metes and bounds of the invention. Moreover the claim is definite and supported by Applicant's specification. Claim 14 recites "the electronic market" not system in line 1. The term "can be" is not findable in claim 17, but rather was deleted by Appellant in the Reply dated February 7, 2003. As to claims 18 and 20, those claims are clearly drawn to a "client station" for entering quotes. Claim 21 recites the limitation "the aggregation window," which is supported by base claim 20.

The second paragraph of 35 U.S.C. §112 second paragraph requires that the claims particularly point out and distinctly claim the subject matter that the applicant regards as his invention and is directed to define the legal metes and bounds of the invention. *In re Geoffe*, 526 F.2d 1393, 1397, 188 U.S.P.Q. 131, (CCPA, 1975). Appellant's claims are definite since one of ordinary skill in the art would understand the subject matter of these claims and the examiner must use the set of claims as amended in response to the non-final action mailed October 7, 2002.

**3. Claims 1-23 are not anticipated
by Gutterman et al. (WO91/14231)**

Introduction

Appellant provides a system that allows certain types of interest (e.g., non-attributable interest) to be hidden yet displayed to the market. The non-attributable interest is interest, e.g., quotes and/or orders that are not attributed to a particular market participant. The non-attributable interest is displayed in an aggregate montage, as part of the aggregated quotes. This arrangement satisfies regulations for displaying of orders/quotes, while enabling the identity, extent, and indeed existence of the orders/quotes to be concealed from market participants. The non-attributable interest allows order entry participants to furnish more liquidity to the market without necessarily revealing information that can adversely affect its trading interests.

Claims 1 and 10

For the purposes of this appeal only, claims 1 and 10 stand or fall together. Appellant's claim 1 is representative of this group of claims.

Claim 1 is directed to a method of managing quotes for a security. Appellant's claimed method includes receiving from a market participant, additional aggregate quotes ... that are displayable as trading interest in a security, but not being attributable to any market participant. Gutterman does not anticipate claim 1.

The Examiner contends that Gutterman anticipated this claim and disclosed "a method of managing quotes for a security." (Office action dated May 8, 2003. See also Final Action of October 7, 2006). The examiner argues that the abstract of Gutterman has all of the features that anticipate claim 1.

Appellant contends that the examiner does not address each and every element of claim 1 and therefore fails to establish a prima facie case of anticipation. Appellant contends that the examiner has not specifically addressed any element in claim 1. For example, the examiner does not address the feature of "aggregate quotes having a size" or that these quotes are "displayable as trading interest in a security, but are not attributable to any market participant." Appellant is unable to find any corresponding teachings in Gutterman. The examiner neither offers an

inherency argument that such quotes existed in Gutterman nor does the examiner admit on the record that she chose to ignore the limitations. Appellant contends that there is no basis upon which to infer that such limitations are inherent in Gutterman and it is improper for the examiner to simply ignore claim limitations.

It is Appellant's contention that Gutterman does not disclose "managing quotes for a security," as in appellant's claim 1, because Gutterman does not discuss quotes. Indeed, Gutterman does not disclose the "aggregate quotes having a size... displayable as trading interest in a security, but are not attributable to any market participant." As shown in Fig. 2b, and as disclosed by Gutterman "it is advantageous to show buy orders in blue and sell orders in red" (Page 24, line 22). According to Gutterman, what is displayed is the total of the number of orders displayed in the incoming order pane.⁹ Gutterman does not suggest modifying the system to handle quotes along with orders.

In FIG. 2a-d of Gutterman, the incoming orders pane 120 includes selected information about each of the orders. Among the information shown in the order panes is "FIRM." This item is attribution of the order displayed in the Gutterman order pane. Gutterman does not disclose that orders are displayable with FIRM. Gutterman discloses:

"The selected information about each incoming order (seven of which are shown in the figure) includes the quantity (shown in the QTY column), price (\$ column), contract and month code (CT column), order type (T column), sending commission house or firm (FIRM column) and the total number of contracts at that price for all incoming orders (TOT column)" (col. 10, lines 39-46).

Gutterman's system includes a feature to "present any information about the selected order that was available to the order entry system but not displayed" (Page 30, lines 19-21). Since the firm or broker information is available to the order entry system, the user could view this information even if it were not displayed. Thus, orders whether considered as equivalent or not to quotes, orders are always attributable and displayable in Gutterman. Inherently therefore, Gutterman does not teach displayable, non-attributable interest, as recited in appellant's claim 1.

⁹ According to Guttermann: "The Incoming Order Pane object 451 also generates a queue portion 125 at the bottom of the incoming order pane 120. Shown in the queue portion 125 is the number of orders (zero is shown in the figure) that have been received by the workstation 10 but that are not displayed in the incoming orders pane 120 because of the pane's fixed size. The queue number is updated as the orders enter and leave the incoming orders pane as described further below." Guttermann page 22, line 28 to page 23, line 4.

In addition, Gutterman “provides the minimum amount of information believed necessary for the broker to decide whether to accept or reject an order” (Page 30, line 9) and the displayed information includes the house or firm, (Page 22, line 19 and page 24, line 15). Gutterman, therefore, does not describe or inherently possess displaying quotes that are not attributable to any market participant.

Therefore, Gutterman is not an anticipating reference under 35 U.S.C. 102(b) since it does not contain every feature of the claimed invention arranged as in Claim 1.

Claims 2 and 11

For the purposes of this appeal only, claims 2 and 11 stand or fall together. Appellant's claim 2 is representative of this group of claims.

Claim 2 depends from claim 1, and further distinguishes the invention over Gutterman. Claim 2 calls for receiving quotes from market participants that are displayable quotes and attributable to corresponding ones of the market participants. Claim 2 in combination with claim 1 clearly requires two distinction actions of receiving, which are, receiving displayable, attributable quotes and receiving displayable non-attributable quotes.

Gutterman describes the orders received on page 24, lines 5-16, as follows:

As described above, the incoming orders pane 120 displays information describing orders that have been communicated to the broker workstation via an electronic order entry system ... the information on each incoming order is presented in a one-line format, including the order's type (e.g., market (K), stop (S), limit (L), stop/limit (/) or M.I.T. (M)), the quantity ordered, the commodity or instrument (e.g., USZ can refer to U.S. Treasury bonds having a December maturity), the price and an identification number of the commission house or other trader placing the order. (emphasis added)

Since Gutterman displays the identification number of the commission house or other trader placing the order for “each incoming order,” Gutterman describes receiving displayable, attributable orders. Gutterman does not describe receiving a second, different type of order/quote. Thus, Gutterman does not teach the combination of receiving displayable non-attributable quotes and receiving displayable, attributable quotes. Accordingly claim 2 serves to further distinguish from Gutterman.

Claim 3

Appellant's claim 3 is directed to "receiving quotes that are reserve quotes, which are neither displayable quotes nor attributable to market participants, but are available as trading liquidity in the security." Gutterman does not anticipate claim 3.

Gutterman does not describe quotes that are "neither displayable quotes nor attributable." The examiner merely stated in rejecting this claim that: "Specifically as to claims 2-12, see above rejection for claim 1, in addition see figures 1-3a, and columns 5-14." No reference or reason for the rejection of claim 3 is given by the examiner related to the particular subject matter of claim 3. Moreover, there are no columns in Guttermann (WO 91/14231). While the US issued patent counterpart to (WO 91/14231), Guttermann 5,297,031 indeed has columns, these features are also not described in that reference.

Appellant cannot find in figures 1-3a, and columns 5-14 (or the equivalent pages of Gutterman WO 91/14231) any teachings directed to reserve interest. Thus, claim 3 when taken in combination with claim 1, further limits claim 1 and serves to distinguish claim 3 over Gutterman, since Gutterman does not suggest including a reserve quote having the claimed features of being neither displayable quotes nor attributable to market participants but available as trading liquidity in the security.

Claims 4, 5, 6, and 7

Each of the claims in this group defines distinct subject matter over Gutterman. Claim 4 is directed to "determining total aggregate quote size." Claim 5 further defines determining total aggregate quote size to include "determining the total aggregate quote sizes by adding received quotes and additional aggregate quotes received for the security at corresponding price levels to provide the total aggregate quote sizes at each of the corresponding price levels and displaying the attributable quotes in an advertisement portion of a quote montage." Neither the features of claim 4 nor the features of claim 5 are anticipated by Gutterman WO 91/14231.

As shown in Fig. 2B, Gutterman includes a total column (e.g., totals 133). However, this pane displays a total number of orders in the deck at and better than its respective price tick (Gutterman page 27, lines 5-7). As can be determined by the displayed totals, the totals are simply a sum of each of the displayed orders. Gutterman does not provide any further teachings

that would indicate that any other order additional types exist in Gutterman that would be used to arrive at the displayed totals.

For example, as shown in Gutterman Fig. 2B, at the price level of 29 there are two orders one for 10 and one for 30 and the displayed total is 40 (i.e., $10 + 30$). For the price level of 30 there are two orders: one for 25 and one for 5 and the displayed total is 70 (i.e., $10 + 30 + 25 + 5$). For the price level of 31 there is one order for 30 and the displayed total is 100 (i.e., $10 + 30 + 25 + 5 + 30$). Thus, Gutterman seems to only total what is actually displayed in the deck pane, and whether or not additional orders are in the system, they do not inherently get counted in the totals unless displayed in the deck pane. Moreover, Gutterman does not provide any indication of additional aggregate quotes included in the aggregation that are available as trading liquidity in the security but are neither displayable nor attributable.

Assuming *arguendo* that Gutterman taught to total quotes of these two differing types, which Appellant does not concede, Gutterman still would not teach each and every feature of claim 5. Claim 5 recites aggregating the quotes to "provide the total aggregate quote sizes at each of the corresponding price levels." Gutterman totals the number of orders at a price level or better. Thus, a user would not be able to readily view the total at each of the corresponding price levels as in the appellant's claim 5.

Claim 7 further limits claim 5, and includes the action of displaying the attributable quote in a current quote window and additional aggregate quote in an aggregate window. As described above, Gutterman does not include both a current quote window and an aggregate window. Gutterman includes "a total 133" of orders at or better than a price level and does not suggest including aggregate quotes. However, even if Gutterman used aggregate quotes instead of totals, the total is not displayed in an aggregate window as recited in claim 7. Instead, in Gutterman, the total is included as one of many items in the deck pane 135. As shown in Gutterman's Fig. 2b, the deck pane includes both order icons 139 and order totals 133 (col. 12, lines 1-55). The order totals are disposed around the periphery of the deck pane that includes the orders such that totals for the buy orders and sell orders are displayed on opposite sides (left side and right side respectively) of the deck pane and are not displayed in a single, separate window. Thus, Gutterman does not suggest displaying the attributable quote in a current quote window and additional aggregate quote in an aggregate window as in the appellant's claim 7.

Claims 8 and 9

For the purposes of this appeal only, claims 8 and 9 stand or fall together. Appellant's claim 9 is representative of this group of claims.

Appellant's claim 9 recites "displaying in a first montage, the quote if it is displayable and displaying in a different portion of the montage the total aggregate quote size."

As described above, Gutterman does not include a total aggregate quote size. Gutterman displays orders (not quotes) in the incoming orders pane. Orders in the incoming orders pane include a designation of the firm placing the order. The total 133 Gutterman (Fig. 2b) is for orders at or below a price level and since the orders in Gutterman's system are associated with a firm the orders are attributable. Gutterman does not suggest displaying "in a different portion of the montage the total aggregate quote size," as in the appellant's claim 9.

Claim 12

Appellant's claim 12 includes executing additional aggregate quotes and reserve quotes to any balance of the order to execute the balance of the order.

In Gutterman, if a large, e.g., buy order cannot be filled by a single, e.g., sell order the large buy order is matched against multiple displayed orders as described to follow:

In cases where the broker executes a large order through more than one counterpart order, a PARTIAL "button" and a TOTAL FILLED area are provided in the fill pane 140 shown in FIG. 2a. As described above, the PARTIAL "button" is created by the Buttons On Screen object 457, and the TOTAL FILLED window is created by the Total Filled Window object 458. After touching the order icon in the deck pane 135, the broker would touch the PARTIAL button, and the order's price and time stamp would appear in the fill pane 140, as described above, and the quantity would appear in the TOTAL FILLED area. The broker would then enter the quantity and identification codes of the counterpart broker and firm for the first order, the TOTAL FILLED amount would decrement by that quantity, and another line of information entry area would appear in the fill pane. The broker would then enter the quantity and identification codes of the counterpart broker and firm for the second order, and the TOTAL FILLED amount would decrement accordingly. Successive lines for information entry would appear in the fill pane until the broker entered orders having a total quantity equal to or greater than the large order being filled" (col. 13, line 47 to col. 14, line 2).

In Gutterman, large orders are matched against multiple, smaller orders in the system. That is, the broker enters the quantity and identification codes of the counterpart broker and firm for the first order and thereafter enters additional orders having a total quantity equal to or

greater than the large order being filled. This is substantially different from “executing additional aggregate quotes and reserve quotes to any balance of the order to execute the balance of the order” as in the appellant’s claim 12. In Appellant’s system, execution against the aggregate and reserve quotes is performed by the system as part of an auto execution process (Appellant’s specification page14, line 18-26). Gutterman does not inherently possess aggregate quotes or reserve quotes else Gutterman would have taught the person of skill in the art to execute a large order against that interest.

Claims 13, 14, and 17

Appellant’s claim 13 is representative of this group. Claim 13 is directed to an electronic market for trading of securities. The market includes a plurality of client stations for entering quotes for securities specifying a price level and a quote size, with the quotes being quotes that are displayable and attributable to a specific market participant or additional aggregate quotes that are displayable but not attributable to a specific market participant. The market also includes a server process that receives the quotes from the clients, aggregates the quotes, and causes totals of aggregate quotes for a plurality of price levels to be displayed on the client systems.

As described above, Gutterman does not describe quotes that are displayable and attributable to a specific market participant and additional aggregate quotes that are displayable but not attributable to a specific market participant. Instead, in Gutterman, Gutterman only discusses orders and all of those orders are displayed and the displayed orders include the firm or house that submitted the order. Hence Gutterman does not teach displayable, non-attributable orders or quotes.

Claim 15

Claim 15 is directed to an electronic market in which aggregated quotes are “displayed in a graphical user interface that includes an aggregate montage for displaying aggregate quotes at multiple price levels on either side of the market.” Gutterman does not describe such a montage.

As discussed above, Gutterman includes a total 133 of orders at a price level or better and does not suggest including aggregate quotes. Gutterman not displayed aggregate quotes in an

aggregate montage, as recited in claim 15. Instead, the total is included as one of many items in the deck pane 135. Gutterman's deck pane includes order icons 139, column headings to identify the types of orders, a market bar 137, and order totals 133 disposed around the periphery of the deck pane (Fig. 2b, col. 12, lines 1-55). The totals for the buy orders and sell orders are displayed on opposite sides (left side and right side respectively) of the deck pane. As shown in Fig. 2b, the order totals are not included in an "aggregate montage for displaying aggregate quotes at multiple price levels on either side of the market" as in the applicant's claim.

Instead, Gutterman displays the totals in two separate regions of the deck pane. This distinction is important. The aggregate montage allows the order entry to take on many forms. The aggregate montage allows order entry participants to furnish more liquidity to the market without necessarily revealing information that can adversely affect its trading interests. For instance, without aggregate interest a very large quote or order would be displayed with attribution and in effect allow traders to trade against that position, possible forcing a poorer execution than it otherwise could have received. (Appellant's specification page 2, lines 9-32, page 13, lines 20-27).

Claims 18 and 19

For the purposes of this appeal only, claims 18 and 19 stand or fall together. Appellant's claim 18 is representative of this group of claims.

Appellant's claim 18 is directed to a client station for entering quotes for securities. The client station includes a display rendering a graphical user interface at which quotes can be entered at a price level. The interface includes controls to enter a quote having a size, the quote being displayable and attributable to a specific market participant, a reserve quote, having a size, the reserve quote being neither displayable nor attributable to a specific market participant, and an additional aggregate quote, having a size that is displayable but not attributable to a specific market participant.

Gutterman does not include or suggest a reserve quote or an aggregate quote. Thus, it would not be obvious to include controls to enter such types of quotes as they are not used in Gutterman's system. Gutterman also does not suggest a display rendering a graphical user interface including controls to enter a quote that is displayable and attributable to a specific

market participant, a reserve quote ... being neither displayable nor attributable ... and an additional aggregate quote, having a size that is displayable but not attributable to a specific market participant. Gutterman does not teach these quotes, in particular these specific types of quotes and does not teach an interface to enter these types of quotes.

Claims 20-23

For the purposes of this appeal only, claims 20-23 stand or fall together. Appellant's claim 20 is representative of this group of claims.

Claim 20 is directed to a graphical user interface for an electronic market for trading products. The graphical user interface includes an aggregation window which displays additional aggregate quotes for a plurality of price levels of a product traded in the market, the aggregate quotes including quotes that are attributable to market participants and quotes that are displayable quotes but are not attributable to any market participants.

The graphical user interface of Gutterman, shown in Figs. 2A-2D, does not include an aggregation window that displays the aggregate quotes including quotes that are attributable to market participants and quotes that are displayable quotes but are not attributable to any market participants. As described above, Gutterman does not include non-attributable quotes. Therefore, Gutterman would not further include a specialized graphical user interface having an aggregation window.

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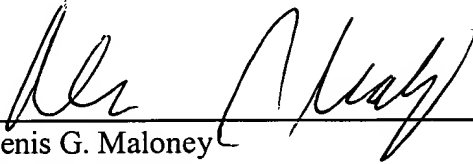
Conclusion

Appellant submits that claims 1-23 are allowable over Gutterman. Therefore, the Examiner erred in rejecting Appellant's claims and should be reversed.

Respectfully submitted,

Date: _____

7/27/06



Denis G. Maloney
Reg. No. 29,670

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Appendix of Claims

1. A method, executed in a computer server system of an electronic market, for managing quotes for a security, the method comprising:

receiving by the server computer system from client systems used by market participants, additional aggregate quotes, the additional aggregate quotes having a size value with the additional aggregate quotes being quotes that are displayable on displays of client systems, as trading interest in a security, but not being attributable to any market participant.

2. The method of claim 1 wherein receiving further comprises:

receiving, by the server computer system, quotes from client systems used by market participants that are displayable quotes and attributable to corresponding ones of the market participants.

3. The method of claim 1 wherein receiving further comprises:

receiving, by the server computer system, quotes from client systems that are reserve quotes, which are neither displayable quotes nor attributable to market participants, but are available as trading liquidity in the security.

4. The method of claim 2 further comprising:

determining, by the server computer system, total aggregate quote sizes of displayable quotes received from market participants.

5. The method of claim 4 wherein determining total aggregate quote size comprises:

determining, by the server computer system, the total aggregate quote sizes by adding received quotes and additional aggregate quotes received for the security at corresponding price levels to provide the total aggregate quote sizes at each of the corresponding price levels;

displaying, on displays of client systems the attributable quotes in an advertisement portion of a quote montage.

6. The method of claim 4 wherein determining total aggregate quote size for quotes received for the security, comprises:

adding, by the server computer system, liked-priced quotes of the displayable and additional aggregate quote type together to provide a total aggregate quote.

7. The method of claim 5 further comprising;
displaying, on displays of client systems, the attributable quote in a current quote window and additional aggregate quote in an aggregate window.

8. The method of claim 2 further comprising:
determining, by the server computer system, if the additional aggregate quotes and displayable quotes are proprietary or agency quotes;
determining, by the server computer system, a total of all agency quotes and proprietary quotes; and
displaying on displays of client systems a total of all agency quotes and a total of all aggregate quotes, which includes the total agency quotes and proprietary quotes.

9. The method of claim 1 further comprising:

determining, by the server computer system, if the quote is a displayable or additional aggregate quote type;

adding, by the server computer system, the quote to all other quotes of the marketable and additional aggregate quote types at price levels of the quote to provide a total aggregate quote size at the price levels;

displaying on displays of client systems in a first montage, the quote, if the quote is displayable and in a different portion of the montage the total aggregate quote size.

10. The method of claim 1 further comprising;

receiving, by the server computer system, a reserve quote.

11. The method of claim 3 further comprising:

receiving, by the server computer system, an order; and

executing, by the server computer system, the order against a quote, stored in the server computer system.

12. The method of claim 11 wherein executing further comprises:

executing, by the server computer system, additional aggregate quotes and reserve quotes against any balance of the order.

13. An electronic market for trading of securities, the market comprising:

a plurality of client systems for entering quotes for securities specifying a price level and a quote size, with the quotes being quotes that are displayable and attributable to a specific market participant or additional aggregate quotes that are displayable but not attributable to a specific market participant; and

a server computer system that receives the quotes from the client systems, aggregates the quotes and causes totals of aggregate quotes for a plurality of price levels to be displayed on displays in data communication with the client systems.

14. The electronic market of claim 13 wherein at client systems quotes can be entered at a price level a quote size that are reserve quotes that are neither displayable nor attributable to a specific market participant.

15. The electronic market of claim 13 wherein the aggregated quotes are displayed on the displays in a graphical user interface that includes an aggregate montage for displaying aggregate quotes at multiple price levels on either side of the market.

16. The electronic market of claim 13 wherein the aggregated quotes are displayed on the displays in a graphical user interface comprising fields that contain total aggregated interest and agency interest.

17. The electronic market of claim 13 wherein quotes attributable to a specific market participant and are displayed on the displays in a graphical user interface that includes a current quote montage, disposed adjacent to the aggregate quote montage.

18. A client system for entering quotes for securities, the client station comprising:
a display rendering a graphical user interface at which quotes can be entered at a price level, said graphical user interface comprising controls to enter a quote having a size, the quote being displayable and attributable to a specific market participant, a reserve quote, having a size, the reserve quote being neither displayable nor attributable to a specific market participant, and an additional aggregate quote, having a size that is displayable but not attributable to a specific market participant.

19. The system of claim 18 wherein the graphical user interface is an aggregation montage and, the interface further includes a current quote montage for displaying attributable quotes.

20. A graphical user interface for an electronic market for trading products, the graphical user interface comprising:

an aggregation window that displays additional aggregate quotes for a plurality of price levels of a product traded in the market, the aggregate quotes including quotes that are attributable to market participants and quotes that are displayable quotes but are not attributable to any market participants.

21. The graphical user interface of claim 20 further comprising a current quote window disposed adjacent the aggregation window.

22. The graphical user interface of claim 20 further comprising:
a current quote window disposed adjacent the aggregation window and wherein said current quote window displays current displayable quotes of participants in the system.

23. The graphical user interface of claim 20 further comprising:
a current quote window disposed adjacent the aggregate window and wherein said current quote window displays current displayable quotes of participants in the electronic market, and further comprises:
a quote that represents total aggregate quotes at a current market level displayed in the aggregation window.

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Evidence Appendix

None

Related Proceedings Appendix

None



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Abraham I. Zeigler et al. Art Unit : 3624
Serial No. : 09/401,875 Examiner : Campen, Kelly Scaggs
Filed : September 23, 1999 Conf. No. : 5266
Title : MONTAGE FOR AUTOMATED MARKET SYSTEM

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR ONE-MONTH EXTENSION OF TIME

Pursuant to 37 CFR §1.136, applicant hereby petitions that the period for response to file the Appeal Brief be extended for one month to and including August 8, 2006.

Enclosed is a check for \$120 for the required fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: _____

7/27/06

Denis G. Maloney
Reg. No. 29,670

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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